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GOVERNMENT CODE - GOV

TITLE 2. GOVERNMENT OF THE STATE OF CALIFORNIA [8000 - 22980] (Title 2 enacted by Stats. 1943, Ch. 134.)

DIVISION 5. PERSONNEL [18000 - 22980] (Division 5 added by Stats. 1945, Ch. 123.)

PART 2. STATE CIVIL SERVICE [18500 - 19799] (Part 2 added by Stats. 1945, Ch. 123.)

CHAPTER 11. Military Service [19770 - 19786] (Chapter 11 added by Stats. 1971, Ch. 446.)

ARTICLE 4. Reinstatement After Military Service [19780 - 19786] (Article 4 added by Stats. 1971, Ch. 446.)

19780. (a) Except as provided in Section 19781, a permanent, probationary, or exempt employee who begins active duty within 90 calendar days from the effective date of his or her long-term military leave or within 10 calendar days from the effective date of his or her short-term or emergency military leave and who returns to state service within six months after termination of military service under his or her long-term military leave or within 10 days after termination of military service under his or her short-term or emergency military leave shall be reinstated to his or her former position. Reinstatement to an employee's former exempt position under this section or Section 19783 shall reestablish the employee's tenure and civil service reinstatement rights, if any, as they existed immediately prior to his or her military leave pursuant to this section or resignation pursuant to Section 19783. For the purpose of this section any period of rehabilitation afforded by the United States or the state following active duty shall be considered as military service and termination of the state military emergency by the Governor shall be considered termination of military service.

(b) Within 30 days of the employee's return to state service, the appointing authority shall inform the employee of his or her rights pursuant to Section 20997, and provide the member with the form provided pursuant to subdivision (f) of that section.

(c) Prior to April 1, 2017, every appointing authority shall provide a letter or electronic communication to all employees informing them of the rights provided by Section 20997.

(Amended by Stats. 2016, Ch. 707, Sec. 1. (SB 294) Effective January 1, 2017.)

19782. A limited-term employee or temporary employee who begins active duty within 10 days from the effective date of his or her military leave and who returns to state service within 10 days after termination of military service or 30 days after any rehabilitation afforded by the United States or the state following the military service, shall be reinstated to the position and civil service status that he or she held on the effective date of leave, if the position has not expired or been abolished. In those instances, the employee is separated in the same manner he or she would have been separated had he or she not been in the military service.

(Amended by Stats. 1993, Ch. 381, Sec. 9. Effective January 1, 1994.)

19783. A permanent, probationary, or exempt employee who resigns from state service for the purpose of entering the recognized military service and begins active duty and returns to state service within the same time limits and conditions as provided in Section 19780 shall be reinstated to his or her former position. The employee shall not receive the rights and benefits provided under Sections 19775, 19775.1, and 19775.3.

(Amended by Stats. 1993, Ch. 381, Sec. 10. Effective January 1, 1994.)

19784. Upon reinstatement of a person under the provisions of Sections 19780 and 19783, any necessary separations shall be effected under the provisions of this part governing layoff and demotion.

(Added by Stats. 1971, Ch. 446.)

19785. A civil service employee who is entitled to reinstatement under Section 19780 or 19782 shall be considered as a person serving in state civil service under Section 19050.9 when a function in which he or she was serving when he or she entered military service is transferred to another state agency and shall be reinstated in the other agency or shall be eligible for reemployment

subject to Article 2 (commencing with Section 19997) of Chapter 7 of Part 2.6 if the function of the state agency is abolished pursuant to law.

(Amended by Stats. 1993, Ch. 381, Sec. 11. Effective January 1, 1994.)

19786. (a) When a civil service employee has been reinstated after military service in accordance with Section 19780, and any question arises relative to his or her ability or inability for any reason arising out of the military service to perform the duties of the position to which he or she has been reinstated, the board shall, upon the request of the appointing power or of the employee, hear the matter and may on its own motion or at the request of either party take any and all necessary testimony of every nature necessary to a decision on the question.

(b) If the board finds that the employee is not able for any reason arising out of the military service to carry out the usual duties of the position he or she then holds, it shall order the employee placed in a position in which the board finds he or she is capable of performing the duties in the same class or a comparable class in the same or any other state department, bureau, board, commission, or office under this part and the rules covering transfer of an employee from a position under the jurisdiction of one appointing power to a position under the jurisdiction of another appointing power, without the consent of the appointing powers, where a vacancy may be made available to him or her under this part and the rules, but in no event shall the transfer constitute a promotion within the meaning of this part and the rules.

(c) If a layoff is made necessary to place a civil service employee in a position in the same class or a comparable class in accordance with this section, the layoff shall be made under Section 19997.3, provided that no civil service employee who was employed prior to September 16, 1940, shall be laid off as a result of the placing of an employee in the same class or a comparable class under this section.

(d) The board may order the civil service employee reinstated to the department, bureau, board, commission, or office from which he or she was transferred either upon request of the employee or the appointing power from which transferred. The reinstatement may be made after a hearing as provided in this section if the board finds that the employee is at the time of the hearing able to perform the duties of the position.

(Amended by Stats. 2013, Ch. 427, Sec. 89. (AB 1062) Effective January 1, 2014.)